



STATE OF MICHIGAN  
DEPARTMENT OF STATE POLICE  
LANSING

GRETCHEN WHITMER  
GOVERNOR

COL. JOSEPH M. GASPER  
DIRECTOR

September 10, 2019

EMMA BEST  
MUCKROCK NEWS  
DEPT. MR 79549  
411A HIGHLAND AVENUE  
SOMERVILLE, MA 02144-2516

Subject: CR-20085153; PUBLIC RECORDS REQUESTS

Dear EMMA BEST:

The Michigan State Police (MSP) has received your request for public records and has processed it under the provisions of the Michigan Freedom of Information Act (FOIA), MCL 15.231 *et seq.*

Your request has been:

☐ Granted.

☐ Granted in part and denied in part. Portions of your request are exempt from disclosure based on provisions set forth in the FOIA. (See comments on the back of this letter.) Under the FOIA, Section 10 (a copy of which is enclosed), you have the right to appeal to the head of this public body or to a judicial review of the denial.

☒ Denied. (See comments on the back of this letter.) Under the FOIA, Section 10 (a copy of which is enclosed), you have the right to appeal to the head of this public body or to a judicial review of the denial.

☐ The documents you requested are enclosed. Please pay the amount of \$-.-. Under the FOIA, Section 10a (a copy of which is enclosed), you have the right to appeal the fee to the head of this public body.

☐ Please pay the amount of \$-.-. Once payment is received the documents will be mailed to you. Under the FOIA, Section 10a (a copy of which is enclosed), you have the right to appeal the fee to the head of this public body.

You may pay the amount due online at <http://mistatepolicepmts.state.mi.us/crsearch> using a credit card or check. You will need to provide your name or reference number listed above. Please note, there is a \$2.00 processing fee for using this service.

If you prefer, you can submit a check or money order made payable to the STATE OF MICHIGAN and mail to P.O. Box 30266, Lansing, MI 48909. To ensure proper credit, please enclose a copy of this letter with your payment.

The MSP's FOIA procedures and guidelines can be accessed at [www.michigan.gov/msp](http://www.michigan.gov/msp).

Sincerely,

BETHANY GOODWIN  
Records Resource Section

**DENIAL OF RECORDS:**

Denial is based on the following provision(s) of the Freedom of Information Act. MCL 15.243, Sec. 13(1). (All that apply are checked)

- ☐ (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- ☐ name(s) ☐ telephone number(s) ☐ address(es)
- ☐ physical characteristics ☐ driver license number(s) ☐ date(s) of birth
- ☐ other: \_\_\_\_\_
- ☐ (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure would do any of the following:
- ☐ (i) Interfere with law enforcement proceedings.
- ☐ (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
- ☐ (iii) Constitute an unwarranted invasion of personal privacy.
- ☐ (iv) Disclose the identity of a confidential source, or if the record is compiled by a law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.
- ☐ (v) Disclose law enforcement investigative techniques or procedures.
- ☐ (vi) Endanger the life or physical safety of law enforcement personnel.
- ☐ (d) Records or information specifically described and exempted from disclosure by statute:
- ☐ MCL 780.758 William Van Regenmorter Crime Victim's Rights Act
- ☐ MCL 722.625 Child Protection Law (reporting person)
- ☐ MCL 722.627 Child Protection Law
- ☐ MCL 600.2163a Revised Judicature Act of 1961
- ☐ MCL 28.214 C.J.I.S. Policy Council Act (LEIN information)
- ☐ Statute: \_\_\_\_\_
- ☐ (g) Information or records subject to the attorney-client privilege.
- ☐ (l) Medical: \_\_\_\_\_
- ☐ (m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action.
- ☐ (s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:
- ☐ (i) Identify or provide a means of identifying an informant.
- ☐ (ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
- ☐ (v) Disclose operation instructions for law enforcement officers or agents.
- ☐ (vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents or those who furnish information to law enforcement departments or agencies.
- ☐ (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.
- ☐ (ix) Disclose personnel records of law enforcement agencies.
- ☐ (w) Information or records that would disclose the social security number of any individual.
- ☐ (z) Information that if disclosed could result in an individual becoming a victim of a cyber incident or disclosing cybersecurity plans or practices.
- ☒ To the best of the department's knowledge, information, and belief, under the information provided by you or by any other description reasonably known to the department, the public records do not exist within the department. Please see additional comments below.
- ☐ Based on the information you provided, we are unable to locate any records pertaining to the incident you described. Please resubmit a request with additional information. Please see additional comments below.
- ☐ The report you have requested has not yet been completed and filed. Please resubmit your request in 30 days.

**Additional comments:**

Sec. 10a.

(1) If a public body requires a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4, the requesting person may do any of the following:

(a) If the public body provides for fee appeals to the head of the public body in its publicly available procedures and guidelines, submit to the head of the public body a written appeal for a fee reduction that specifically states the word "appeal" and identifies how the required fee exceeds the amount permitted under the public body's available procedures and guidelines or section 4.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, in the court of claims, for a fee reduction. The action must be filed within 45 days after receiving the notice of the required fee or a determination of an appeal to the head of a public body. If a civil action is commenced against the public body under this subdivision, the public body is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute. An action shall not be filed under this subdivision unless 1 of the following applies:

(i) The public body does not provide for appeals under subdivision (a).

(ii) The head of the public body failed to respond to a written appeal as required under subsection (2).

(iii) The head of the public body issued a determination to a written appeal as required under subsection (2).

(2) Within 10 business days after receiving a written appeal under subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Waive the fee.

(b) Reduce the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the remaining fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4.

(c) Uphold the fee and issue a written determination to the requesting person indicating the specific basis under section 4 that supports the required fee. The determination shall include a certification from the head of the public body that the statements in the determination are accurate and that the fee amount complies with the public body's publicly available procedures and guidelines and section 4.

(d) Issue a notice extending for not more than 10 business days the period during which the head of the public body must respond to the written appeal. The notice of extension shall include a detailed reason or reasons why the extension is necessary. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a).

(4) In an action commenced under subsection (1)(b), a court that determines the public body required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 shall reduce the fee to a permissible amount. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located. The court shall determine the matter de novo, and the burden is on the public body to establish that the required fee complies with its publicly available procedures and guidelines and section 4. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If the requesting person prevails in an action commenced under this section by receiving a reduction of 50% or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by charging an excessive fee, the court shall order the public body to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(8) As used in this section, "fee" means the total fee or any component of the total fee calculated under section 4, including any deposit.

Sec. 10.

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request.

(2) Within 10 business days after receiving a written appeal pursuant to subsection (1)(a), the head of a public body shall do 1 of the following:

(a) Reverse the disclosure denial.

(b) Issue a written notice to the requesting person upholding the disclosure denial.

(c) Reverse the disclosure denial in part and issue a written notice to the requesting person upholding the disclosure denial in part.

(d) Under unusual circumstances, issue a notice extending for not more than 10 business days the period during which the head of the public body shall respond to the written appeal. The head of a public body shall not issue more than 1 notice of extension for a particular written appeal.

(3) A board or commission that is the head of a public body is not considered to have received a written appeal under subsection (2) until the first regularly scheduled meeting of that board or commission following submission of the written appeal under subsection (1)(a). If the head of the public body fails to respond to a written appeal pursuant to subsection (2), or if the head of the public body upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action under subsection (1)(b).

(4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7).

(7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.